

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

Rogers Shipp,

Plaintiff,

Case:2:15-cv-13034  
Judge: Lawson, David M.  
MJ: Grand, David R.  
Filed: 08-26-2015 At 11:59 AM  
CMP SHIPP V. FINANCIAL FREEDOM (DA)

-v-

Financial Freedom, a division of One West Bank N.A.,

Defendant.

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Rogers Shipp	Gail Balentie, Vice-President
Defendant Per Se	Financial Freedom, a division of One West Bank N.A.
3322 Northwestern St.	P.O. Box 85400
Detroit, MI 48206	Austin, TX 78708
313-898-4582	1-866-727-4303

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**COMPLAINT**

**INTRODUCTION**

Professional malpractice consists of failure of one rendering professional services to exercise that degree of skill and learning commonly applied under all the circumstances in the community by the average prudent reputable member of the profession with the result of loss, injury, or damage. It is any professional misconduct or unreasonable lack of skill or fiduciary duties. Reverse mortgages are complex products and difficult for consumers to understand, especially in light of misleading advertising, low-quality counseling, and risk of fraud and other scams. Moreover, many consumers do not use reverse mortgages for the positive consumption-smoothing purposes advanced by economists. In Canada the borrower must seek independent legal advice before being approved for a reverse mortgage

NOW COMES Plaintiff, Rogers Shipp, In Propria Persona, and for his complaint against the Defendant, states as follows:

**SUBJECT MATTER JURISDICTION AND VENUE**

1. Plaintiff, Rogers Shipp, is a resident of the City of Detroit, County of Wayne and State of Michigan.
2. Defendant, Financial Freedom, a division of One West Bank N.A., is a company licensed to conduct business in the State of Texas, to the information, knowledge, and belief of Plaintiff.
3. The citizenship of the principle parties of the Defendant is a businesses incorporated in another State therefore because of the diversity this venue and jurisdiction are proper pursuant to 28 U.S.C. 1332 parts 6 and 7, . U.S. Constitution Article III sec. 2, FDIC Part 344 REMIC, MCL 600.2932, U.S.C. 1746, The Federal Real Estate Procedures Act of 1974, Mich. Comp. Laws § 600.3205(3)(b)-(c); *cf.* and Mich. Comp. Laws§ 445.1651a(s),(aa).

**STATEMENT OF FACTS**

4. Plaintiff incorporate paragraphs 1-3 as though hereby stated.
5. On June 25, 1969, Plaintiff, Rogers Ship, and his wife, Johnnie Shipp acquired property described as: Lot 121 Wildemere Park Subdivision, as recorded in Liber 19, Pages 98 and 99 of Plats, Wayne County Records,

commonly known as 3322 Northwestern St., Detroit, MI 48206. (SEE EXHIBIT A)

6. Without due process of the law Defendant, Financial Freedom, a division of One West Bank N.A. foreclosed on the property.

7. Pursuant to the timeline for foreclosure in the State of Michigan :

- Day 1.: Mortgage payments are typically due on the first of each month. If payment is not made on or before the due date it is considered late.
- Day 31.: A late fee is assessed and the lender mails a late payment notice to the borrower.
- Day 61.: After the loan is two payments past due, the lender sends additional late payment notices and increases their efforts in contacting the borrower.
- Day 91.: The lender sends a “Demand” or “Breach” letter notifying borrower that the terms of the mortgage has been violated. The letter also notifies the borrower of their right to work with the lender’s representative/attorney for loan repayment or modification options to avoid foreclosure. The notice describes the timeline in which the borrower must initiate contact and also encourages them to seek assistance from a housing counselor.
- Day 181.: If all attempts to resolve the mortgage default are unsuccessful, the lender’s attorney records a formal notice of foreclosure at the local courthouse, schedules the date for the sheriff’s sale and publishes details of the debt over four consecutive weeks in the legal newspaper. THE NOTICE DESCRIBES THE TIMELINE.
- Day 212. The Sheriff’s Sale is held at the county courthouse and the house is sold to the highest bidder. The bidder must be physically

present. The officer conducting the sale executes a “Sheriff’s Deed” which specifies the last date that the borrower can redeem the property.

**COUNT I**

**PROMISSORY ESTOPPEL**

8. Plaintiff incorporate paragraphs 1-7 as though stated herein.
9. Defendant, Financial Freedom a division of One West Bank N.A., entered into a contractual relationship with Plaintiff to acquire a reverse mortgage, or Home Equity Conversion Mortgage (HECM)
10. An agent of Defendant, Financial Freedom explained to Plaintiff that the reverse mortgage is a special type of home loan for older homeowners that require no monthly mortgage payments.
11. It was also explained to Plaintiff, that as a borrower, he is still responsible for property taxes and homeowner's insurance and that the reverse mortgage would allow him to access the home equity built up in the home now and defer payments on a reverse mortgage until he die, sell, or move out of the home, the interest is added to the loan balance each month.
12. Plaintiff was never told that the rising loan balance can eventually grow to exceed the value of the home, particularly in times of declining home values or if the borrower continues to live in the home for many years and that specific rules of reverse mortgage transactions vary depending on the laws of the jurisdiction.
13. Defendant, Freedom Financial made a promise that Plaintiff would

reasonably be expected to rely upon.

14. Plaintiff relied upon Financial Freedom 's promise that payments on the reverse mortgage would be deferred until he sold or moved out of the home.

15. On April 30, 2015 Defendant, Financial Freedom requested that plaintiff execute a deed-in-lieu-of-foreclosure, notwithstanding that Plaintiff was still living in home and not sold it.

16. Financial Freedom's promise that payments on the reverse mortgage would be deferred until his death, moving out, or selling the home created reliance by the Plaintiff.

17. The actions by the Defendant and Plaintiff contain the elements of promissory estoppel : (1) A promise clear and unambiguous in its terms, (2) reliance on the party by whom the promise is made, (3) with that reliance being both reasonable and foreseeable,(4) and injury to the party asserting estoppel as a result of his reliance. *D.I.C.-v- Oldenburg, 34 F3d 1529 (10<sup>th</sup> Cir 1994), Universal Marine Ins. Co. LTD -v-Beacon Ins. Co. 768 F2d 84 (4<sup>th</sup> Cir. 1985),Mazzaferro-v-RLE Ins. Co. 50 F3d 137 (2d Cir 1995), Gas Kwick, Inc. –v-United Pacific Ins. Co. 58 F3rd 1536 (11<sup>th</sup> Cir 1995) James King & Sons, Inc. – v-De Santis Const. No. 2 Corp. 97 Misc. 2d. 1063, 413 NYS 2d.78,81*

## DAMAGES

18. Plaintiff incorporate paragraphs 1-17 as though stated herein.

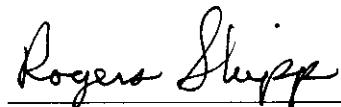
19. The Michigan Supreme Court, quoting Black's Law Dictionary define damages as: a pecuniary compensation or indemnity which may be recovered in the courts by any person who has suffered loss, detriment, or injury, whether to his person, property, or rights, through the unlawful acts or omission, or negligence of another.

20. As a direct and proximate result of defendant Roman Floors & Remodeling's negligence, plaintiff suffered the trauma of deep emotional pains together with anxiety, worry, sleepless nights, depression, lasting injuries, loss of enjoyment of life and aggravation of preexisting conditions together with replacing ten-thousand-dollars worth of furniture.

WHEREFORE because of the above stated reasons, Plaintiff request that this Honorable Court find Defendant Financial Freedom, liable for professional malpractice and promissory estoppel and award the Plaintiff actual damages of eighty-five-thousand-dollars (\$85,000.00) and exemplary damages in the sum of One-Hundred- and- Fifty-Thousand-Dollars (\$150,000.00) and with such relief for the court to grant all which it finds just and equitable .

Dated: August 24, 2015

Respectfully submitted by,



Rogers Shipp  
IN PRO PER  
3322 Northwestern Street  
Detroit, MI 48206  
(313)-898-4582



PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

Yes

No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

Yes

No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

Notes :

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## New Lawsuit Check List

Instructions: Put a check mark in the box next to each appropriate entry to be sure you have all the required documents.

<input checked="" type="checkbox"/>	Two (2) completed Civil Cover Sheets.	
Enter the number of defendants named in your lawsuit in the blank below, add 2 and then enter the total in the blank. $\begin{array}{r} 1 \\ + 2 = \end{array} \quad \boxed{3}$ Complaints. <small>A of Defendants Total</small>		Case: 2:15-cv-13034 Judge: Lawson, David M. MJ: Grand, David R. Filed: 08-26-2015 At 11:59 AM CMP SHIPP V. FINANCIAL FREEDOM (DA)
Received by Clerk: <u>DP</u> Addresses are complete: <input checked="" type="checkbox"/>		
<input type="checkbox"/> If any of your defendants are <b>government agencies</b> : Provide two (2) extra copies of the complaint for the U.S. Attorney and the Attorney General.		
<b>If Paying The Filing Fee:</b>		<b>If Asking That The Filing Fee Be Waived:</b>
<input type="checkbox"/> Current new civil action filing fee is attached.  Fees may be paid by check or money order made out to:  <i>Clerk, U.S. District Court</i>		<input checked="" type="checkbox"/> Two (2) completed Application to Proceed in District Court without Prepaying Fees or Costs forms.
Received by Clerk: _____ Receipt #: _____		Received by Clerk: <u>DA</u>

### Select the Method of Service you will employ to notify your defendants:

Service via Summons by Self	Service by U.S. Marshal (Only available if fee is waived)	Service via Waiver of Summons (U.S. Government cannot be a defendant)
<input type="checkbox"/> Two (2) completed summonses for each defendant including each defendant's name and address.	<input type="checkbox"/> Two (2) completed USM - 285 Forms per defendant, if you are requesting the U.S. Marshal conduct service of your complaint.  <input type="checkbox"/> Two (2) completed Request for Service by U.S. Marshal form.	<input checked="" type="checkbox"/> You need not submit any forms regarding the Waiver of Summons to the Clerk.  <u>Once your case has been filed, or the Application to Proceed without Prepaying Fees and Costs has been granted, you will need:</u> <ul style="list-style-type: none"> <li>• One (1) Notice of a Lawsuit and Request to Waive Service of a Summons form per defendant.</li> <li>• Two (2) Waiver of the Service of Summons forms per defendant.</li> </ul>
Received by Clerk: _____	Received by Clerk: _____	Send these forms along with your filed complaint and a self-addressed stamped envelope to each of your defendants.

**Clerk's Office Use Only**

Note any deficiencies here: